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6 Attorneys for Defendants,  
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7 POLICE DEPARTMENT, CHIEF WAYNE  
TUCKER, SGT. BERNARD ORTIZ  
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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 MIGUEL ORTEGA, BENJAMIN ORTEGA,

14 Plaintiffs,

15 v.

16 CITY OF OAKLAND, OAKLAND POLICE  
17 DEPARTMENT, WAYNE TUCKER, In His  
Capacity as the Police Chief of the City of  
18 Oakland, RAMON J. ALCANTAR, Individually  
and in his capacity as a Police Officer for the  
19 City of Oakland, B. ORTIZ, Individually and in  
his capacity as a Police Officer for the City of  
20 Oakland, DOES 1 THROUGH 200,

21 Defendants.

Case No. C-07-02659 (JCS)

**DECLARATION OF ERSIE JOYNER IN  
SUPPORT OF DEFENDANTS' MOTION  
FOR PARTIAL SUMMARY JUDGMENT**

Date: September 19, 2008  
Time: 9:30 a.m.  
Dept.: Courtroom A, 15th Floor  
The Honorable Joseph C. Spero

22 I, Ersie Joyner, declare:

23 1. I am employed by the City of Oakland as a Lieutenant in the  
24 Homicide Division Division of the Oakland Police Department. I have been employed by  
25 OPD for 17 years. I have personal knowledge of the matters stated herein and could  
26

1 competently testify thereto if called as a witness in this matter.

2 2. As Lieutenant of HOMICIDE I am responsible for ALL  
3 DEATH INVESTIGATIONS.

4 3. Each day at OPD the Officers show up for line up at 7:30 a.m. or 9:00 a.m., 12:00  
5 p.m., and 1:00 p.m. where they receive their assignments for the day. The line-up detail contains  
6 information regarding each officer's name, unit number, serial number and assignment and is kept  
7 in written form during the normal course of business. I am familiar with the procedures used by  
8 OPD to maintain daily line-up detail records.

9 4. Attached as Exhibit "A" to my declaration is a true and correct copy of the line-up  
10 detail for May 7, 2006 for the Cinco De Mayo Festival.

11 5. Defendant Officers Alcantar and Ortiz are listed under the 1:00 p.m. line-up as  
12 assigned to the Blue Delta Team to patrol the areas between Foothill Blvd., Bancroft Avenue, High  
13 Street and 73<sup>rd</sup> Avenue. Alcantar and Ortiz were assigned to drive police vehicle unit number  
14 20A61.

15 6. Alcantar's and Ortiz's assignment did not include the issuance of a Taser. Tasers are  
16 issued to certain officers on certain assignments. If the detail does not indicate that the officer is to  
17 be issued a taser, one was not issued to them. The line-up detail for Alcantar and Ortiz indicates  
18 that tasers were not issued to them on May 7, 2006.

19 I declare under penalty of perjury under the laws of the State of California and United States  
20 of America that the foregoing is true and correct.

21 Executed this 6 day of August, 2008, at Oakland, California.

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23   
24 ERSIE JOYNER  
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